IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

SUMMONS FOR JUDGMENT NO. 26 OF 2005
IN
SUM. SUIT NO.3257 OF 2004

Inductotherm (India)Pvt. Ltd. Plaintiffs
vs.
ISIBARS Ltd. Defendants

Mr.M.S.Bhandari i/b.Pradnya L. Doshi for the plaintiffs.

Mr.Simil Purohit i/b.Udwadia & Udeshi for the defendants.

CORAM : S.U. KAMDAR,J.

DATED : 24th October 2005

P.C.

The present suit is filed for recovery of Rs.6,82,212.40 being the principal amount and with further interest amount of Rs.8,04,666.73. The total claim in the present suit is for Rs.14,86,879.13.

2. The suit arises out of an agreement for providing Induction Reheating Furnace for Billets for WRM Project at Khopoli. It is the case of the defendant that there are various defects and the furnace provided by the defendants is not as per the specification of the terms and conditions of the Contract. On the other hand, it is the case of the plaintiff that the furnace installed is in accordance with the terms and conditions of the contract and in fact duly commissioned and, therefore, the dispute raised by the defendant has no merits. On

perusal of the documents, I find that there are various triable issues arise pertaining to the various technical specification whether they have been complied with in providing the said re-heating furnace. It is not the case where order can be passed without trial against the defendant. In my opinion, therefore, unconditional leave to defend the Suit is required to be granted to the defendants. Accordingly, summons for judgement is dismissed. Unconditional leave to the defendant to defend the Suit granted.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection and discovery within four weeks thereafter. Suit to be on Board of the learned Judge taking up Commercial Causes Suits.

(S.U. KAMDAR,J.)